

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DEVONTE B. HARRIS,

Plaintiff,

v.

R. COLEMAN,

Defendant.

Case No. 1:20-cv-00759-DAD-SKO (PC)

**ORDER WITHDRAWING FINDINGS AND
RECOMMENDATIONS AND DIRECTING
DEFENDANT'S COUNSEL TO CONTACT
THE COURT TO SCHEDULE AN EARLY
SETTLEMENT CONFERENCE**

(Doc. 21)

On May 10, 2021, the Court issued an order directing the parties, within 40 days, to file a notice indicating whether they agree to participate in an early settlement conference. (Doc. 13.) The parties failed to file the notice within the time provided. Therefore, On July 2, 2021, the Court issued an order to show cause, within 21 days, why sanctions should not be imposed for failure to comply with the Court's order. (Doc. 17.) Defendant filed her notice on that same date. (Doc. 18.) Plaintiff failed to file his notice or otherwise respond to the order to show cause within 21 days. Accordingly, on August 12, 2021, the Court issued findings and recommendations to dismiss this action for failure to prosecute. (Doc. 21.)

On August 16, 2021, Plaintiff filed a notice that he "is willing to take part in an early settlement conference." (Doc. 22.) On August 23, 2021, Plaintiff filed objections to the pending findings and recommendations. (Doc. 23.) Plaintiff states that he submitted a notice that he would participate in a settlement conference on July 11, 2021, and that if the Court did not

1 receive the notice, “it [was] through no fault of [his] own.” (*Id.* at 2.) Aside from this self-serving
2 statement, Plaintiff does not explain why the Court did not receive his notice until after it issued
3 its findings and recommendations to dismiss this case. Plaintiff also does not explain why he
4 failed to file the notice within the time provided by the Court’s May 10, 2021 order.

5 Notwithstanding the foregoing, in abundance of caution, the Court WITHDRAWS its
6 findings and recommendations to dismiss this action (Doc. 21). Pursuant to its May 10, 2021
7 order, (Doc. 13), and the parties’ notices (Docs. 18, 22), the Court will set this matter for an early
8 settlement conference. Within 7 days, Defendant’s counsel SHALL contact the undersigned’s
9 Courtroom Deputy Clerk to schedule the conference, as instructed by the May 10, 2021 order
10 (Doc. 13 at 2).

11
12 IT IS SO ORDERED.

13 Dated: August 25, 2021

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE